

**CALENDAR ITEM
C02**

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S 1

12/18/15
PRC 8336.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Gwerder-Tahoe Partners, a California Limited Partnership, and Idlewild Partners, L.P., a California Limited Partnership

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 3618 Idlewild Way, Assessor's Parcel Number (APN) 085-180-008, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys.

LEASE TERM:

10 years, beginning December 18, 2015.

CONSIDERATION:

\$1,373 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

1. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.
2. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

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authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland, APN 085-180-008, adjoining the lease premises.
2. On September 17, 2001, the Commission authorized a 10-year General Lease – Recreational Use for a pier and two mooring buoys to Gwerder-Tahoe Partners, a California Limited Partnership, and Howard O. Lenz and Alice Goodwin Lenz, as Co-Trustees of the Lenz Family Trust dated August 25, 1993. That lease expired on May 31, 2011. On April 29, 2005, the Lenz Family Trust's fifty-percent ownership interest of the upland parcel was deeded to Idlewild Partners, L.P., a California Limited Partnership.
3. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of an existing pier and three existing mooring buoys, one of which was not previously authorized by the Commission. The pier and two of the mooring buoys have historically been associated with the littoral parcel (APN 085-180-008). The Applicant's mooring buoys have been in the Lake Tahoe for many years, and in their current location since approximately 1968 as determined by the U.S. Army Corps of Engineers in a "grandfathered" status letter dated October 7, 2009.
4. Historically, TRPA ordinances allowed only two existing private mooring buoys per littoral parcel. TRPA adopted new shorezone ordinances in 2008 which allowed permitting of up to three existing private mooring buoys located adjacent to a lakefront parcel if the owner could verify that the third buoy had been placed in the lake prior to 1972, or had an existing valid lease for a third buoy from the Commission, or a valid permit from the U.S. Army Corps of Engineers. In 2010, the U.S. District Court vacated the 2008 shorezone ordinances, invalidating the permits issued thereunder. The 9th Circuit U.S. Court of Appeals affirmed this ruling.
5. The Applicant provided a copy of a TRPA permit for three buoys adjacent to APN 085-180-008 issued by TRPA on March 17, 2010, under the "grandfather clause" adopted by TRPA in 2008. Pursuant to the U.S. District Court and the 9th Circuit U.S. Court of Appeals ruling, this permit is not valid.

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6. TRPA is now operating under the pre-2008 Code of Ordinances which does not have a third buoy grandfather clause. Recommending approval for a third buoy would be in direct conflict with the current TRPA Code of Ordinances and the Commission's standard lease provision. On August 27, 2014, staff wrote to the Applicant advising staff would not recommend more than two buoys in the new lease because of the conflict with TRPA's current code and the Commission's standard lease provisions.
7. Staff recommends the Commission authorize two existing mooring buoys and the existing pier to be consistent with the current TRPA Code of Ordinances. Staff recommends the Commission deny authorization for the third mooring buoy.
8. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

CALENDAR ITEM NO. **C02** (CONT'D)

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Recreational Use to Gwerder-Tahoe Partners, a California Limited Partnership, and Idlewild Partners, L.P., a California Limited Partnership, beginning December 18, 2015, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,373, with an annual Consumer Price Index adjustment; and liability insurance with coverage in an amount no less than \$1,000,000 per occurrence.
2. Deny authorization for a third mooring buoy adjacent to APN 085-180-008.

EXHIBIT A

PRC 8336.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 36, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to those parcels described in Grant Deed (Individual) recorded April 29, 2005 as Document Number 2005-0053254 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed (Individual) recorded April 29, 2005 as Document Number 2005-0053254 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 04/14/2015 by the California State Lands Commission Boundary Unit.



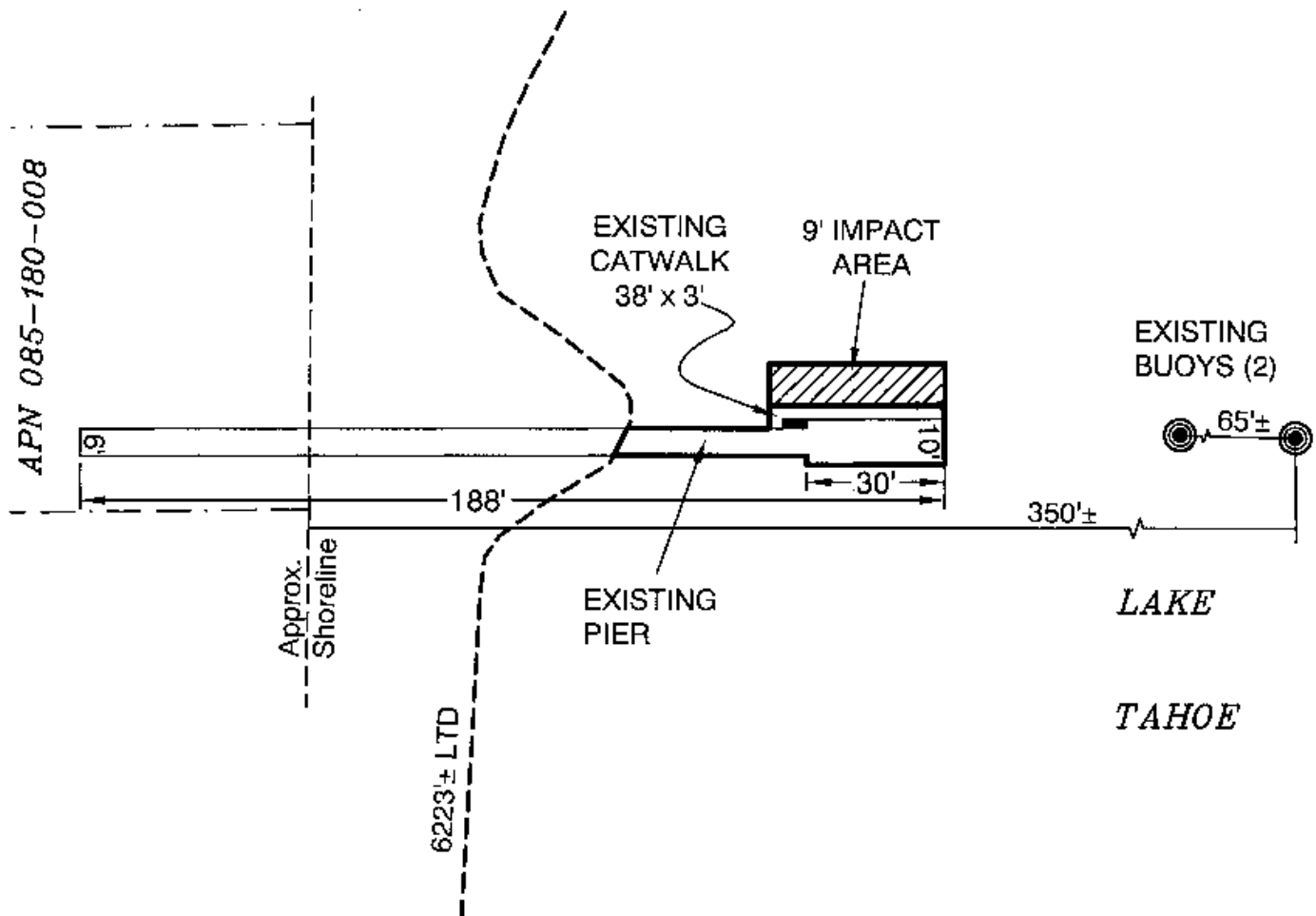


EXHIBIT A

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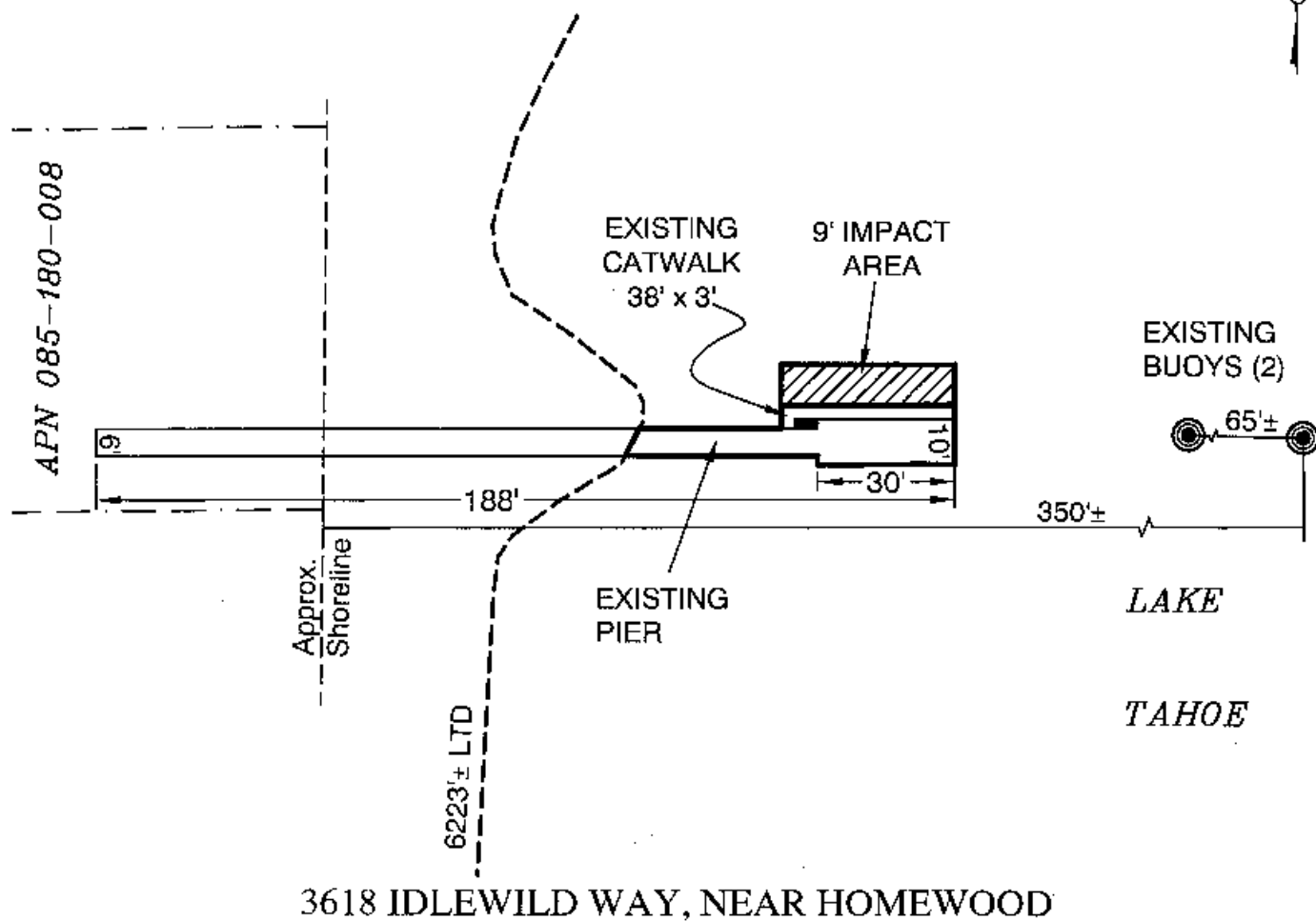
TS 04/14/15

LAND DESCRIPTION PLAT
PRC 8336.1, GWERDER-TAHOE &
IDLEWILD PARTNERS, L.P.
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



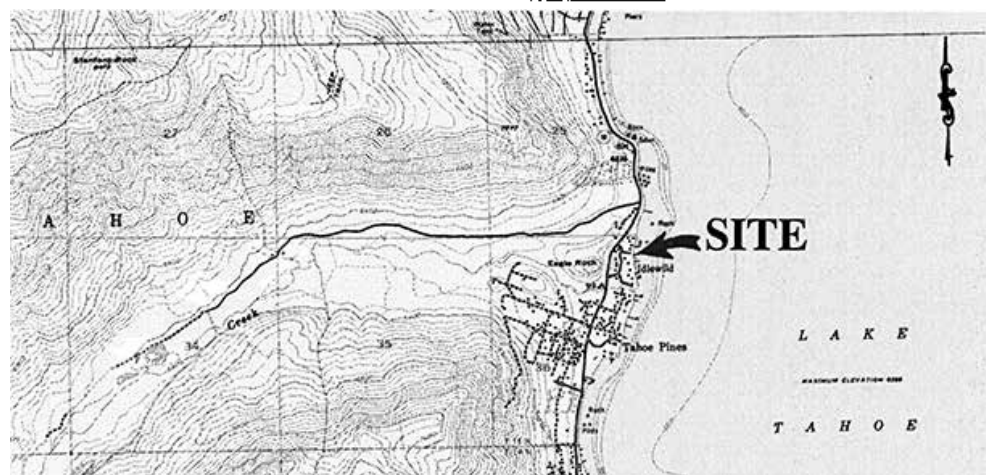
SITE



3618 IDLEWILD WAY, NEAR HOMEWOOD

NO SCALE

LOCATION

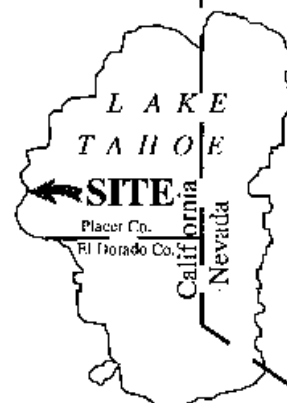


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 8336.1
GWERDER-TAHOE &
IDLEWILD PARTNERS, L.P.
APN 085-180-008
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



TS 04/14/15